

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 2027 OF 2007

Gokul Jotiba Chikundre
Age : 48 years, occu.: nil
R/o Narangwadi, Tal. Omerga,
District Osmanabad

Petitioner.

Versus

1. The State of Maharashtra
Through Ministry of Education,
Mantralaya, Marine Lines,
Bombay.
2. Head Master
Bharat Vidyalaya, Omerga,
District Osmanabad.
3. Education Officer (Secondary),
Zilla Parishad, Osmanabad,
District Osmanabad.

Respondents.

Mr. S.D. Taushikar, Advocate for the petitioner.

Mr. A.V. Deshmukh, A.G.P. for the State.

Mr. S.S. Jadhav, Advocate for respondent No.2.

CORAM : T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.

Dated : 15.01.2018.

ORAL ORDER (PER T.V. NALAWADE, J) :-

1. The petition is filed for the relief of direction to the respondents, particularly to the employer-respondent No.2, to see that steps are taken for enabling the petitioner to get pension. Both the sides are heard.

2. The contentions made show that after putting in about 16 years of service, the petitioner did not turn up. He had not applied for any kind of leave but he remained absent. He came afterwards, only for getting pension when he had crossed the age of superannuation.

3. Learned Counsel for the respondents drew attention of this Court to Rule 16 (3) of the Maharashtra Employees of Private Schools Rules, 1981. This rule has two parts. In the first part, the procedure which is required to be followed due to absence for some period without getting sanction of leave, is given and in the second part there is deemed voluntary abandonment of service by the employee. If the employee himself remains absent from the duty without leave continuously for a period exceeding three years, there is deeming provision that it shall be treated that he has abandoned

the service.

4. The learned Counsel for the respondents submitted that when the petitioner abandoned service and he had not completed qualifying service as per M.C.S.R. (Pension) Rules, no pension can be paid to him.

5. Learned Counsel for the petitioner drew attention of this Court to various kind of pensions and he submitted that the employee is entitled to get at least pension on compassionate ground. That provisions is applicable when the employee is removed from service and not when the employee has abandoned the service. In the present case, basically the employee had not completed qualifying service. There is no provision made in M.C.S.R. (Pension) Rules for giving pension of any kind to such employees.

6. The learned Counsel for the petitioner placed reliance on some observations of the learned Single Judge of this Court made in the case reported as **2016 (5) Bom C R 218 (Sant Kabir Shikshan Prasarak Mandal and ors. Vs. Azhar Khan Ors.)**. The facts of the reported case were totally different and due to those facts some observations were made with regard

to the procedure which was expected to be followed by the employer. Those observations cannot be of any use to the present petitioner.

7. Learned Counsel for the petitioner submitted that the petitioner is not paid the amount of gratuity and other amounts like provident fund, etc. Those amounts are of different nature and the employer/respondent is expected to consider those claims.

8. With the aforesaid directions, the Petition is dismissed.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/